

STATUTES

OF THE

PROVINCE OF ONTARIO,

PASSED IN THE SESSION HELD IN THE

THIRTY-SEVENTH YEAR OF THE REIGN OF HER MAJESTY

QUEEN VICTORIA,

BEING THE THIRD SESSION OF THE SECOND PARLIAMENT OF ONTARIO,

BEGUN AND HELDEN AT TORONTO, ON THE SEVENTH DAY OF JANUARY, IN THE YEAR OF OUR
LORD ONE THOUSAND EIGHT HUNDRED AND SEVENTY-FOUR.



HIS EXCELLENCY
THE HONOURABLE JOHN CRAWFORD,
LIEUTENANT - GOVERNOR.

Toronto:
PRINTED BY JOHN NOTMAN,
LAW PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.

ANNO DOMINI 1874.

CAP. VI.

An Act respecting the Solemnization of Marriages.

[Assented to 24th March, 1874]

HER Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Marriages before passing of this Act legalized.

Proviso.

One publication of banns sufficient.

Certificate instead of license.

1. All marriages which have before the passing of this Act, been celebrated within the Province of Ontario or within Upper Canada, by any person legally authorized to marry, between persons not under any legal disqualification for entering into the contract of matrimony, are hereby declared to have been and to be lawful and valid so far as respects the civil rights, in this Province, of the parties or their issue, and so far as respects all matters within the jurisdiction of the Ontario Legislature, notwithstanding that the banns were not published for the number of times, or at the place or time, or in the manner required by law, or that there was any other defect in the publication of the banns, or that no banns were published; or, notwithstanding that there was any defect in the marriage license, or that the marriage was celebrated without license: Provided that the parties thereafter lived together, and cohabited as husband and wife, and that the validity of the marriage has not hitherto been questioned in any suit at law or in equity; and provided further that nothing in this Act contained shall extend or be construed to extend to make valid any marriage illegally solemnized where the parties to such illegal marriage or either of them has since contracted matrimony according to law.

2. In case of an intended marriage after publication of banns, and without a license or a certificate under this Act, it shall not henceforward be necessary that banns be published on more than one Sunday; and it shall be sufficient, if the intention of the two persons to intermarry be proclaimed once, openly, and in an audible voice, either in the church, chapel or meeting house in which one of the parties has been in the habit of attending worship, or in some church, chapel, meeting house, or place of public worship of the congregation or religious community with which the minister or clergyman who performs the ceremony is connected, in the local municipality, parish, circuit or pastoral charge, where one of the parties has, for the space of fifteen days immediately preceding, had his or her usual place of abode; such proclamation to be on a Sunday, immediately before the service begins, or immediately after it ends, or at some intermediate part of the service.

3. A certificate in the form given in Schedule A to this Act may at the option of the applicant, be substituted for the marriage

riage license heretofore required ; and a certificate under this Act shall have the same legal effect as a license.

4. Such certificate or license shall hereafter be issued from the office of the Provincial Secretary, and shall be furnished to persons requiring the same by such persons as the Lieutenant-Governor in Council shall name for that purpose. A license shall be under the hand and seal of the Lieutenant-Governor.

5. Before any certificate or license is granted by any person so named, one of the parties to the intended marriage shall personally make oath before the person who is to grant the certificate or license, that he or she believes that there is no affinity, consanguinity, precontract, or other lawful cause, or legal impediment, to bar or hinder the solemnization of the marriage, and that one of the parties has for a space of fifteen days immediately preceding the issue of the certificate or license had his or her usual place of abode within the judicial district or county, in which (for either municipal or judicial purposes) the local municipality in which the marriage is to be solemnized lies ; and in case either of the parties, not being a widower or widow, is under the age of twenty-one years, that the consent of the person whose consent to the marriage is required by law has been obtained thereto : Provided always, that if there is no person having authority to give such consent, then, upon oath made to that effect by the party requiring the certificate or license, it shall be lawful to grant the certificate or license notwithstanding the want of any such consent. The affidavit may be in the form set forth in Schedule B to this Act.

6. The father, if living, of any party under twenty-one years of age (not being a widower or widow,) or, if the father be dead the guardian or guardians of the person of the party so under age, lawfully appointed, or one of the guardians, if there are more than one ; or, in case there is no such guardian, then the mother of the minor, if the mother is unmarried, shall have authority to give consent to the marriage.

7. In case the person having authority to issue the certificate or license has personal knowledge that the facts are not as the fifth section of this Act requires, he shall not issue the certificate or license ; and if he has any reason to believe or suspect that the facts are not as aforesaid, he is, before issuing the certificate or license, to require further evidence to his satisfaction in addition to the said affidavit or deposition.

8. No fee shall be payable for any license or certificate, except the sum which the issuer of marriage licenses has heretofore been entitled or allowed to retain for his own use in respect of a marriage license ; and the issuer of the license or certificate shall be entitled to retain the said sum for his own use as heretofore ; but the Lieutenant-Governor in Council may from time to time reduce the sum so payable.

Expense of
providing
licenses.

License to pro-
tect minister
from damages
when he is
unaware of
the impedi-
ment.

When this Act
to go into
effect.

9. All expenses incident to providing licenses and certificates, are to be paid by the issuer of the licenses and certificates.

10. No minister who performs any marriage ceremony after banns published, or after a license or a certificate issued under this Act, shall be subject to any action or liability for damages or otherwise by reason of there having been any legal impediment to the marriage, unless, at the time when he performed the ceremony, he was aware of the impediment.

11. This Act shall go into effect on the first day of July next, after the passing thereof ; except as to the first section which shall go into effect forthwith.

SCHEDULE A.

(*Being form of certificate before marriage without banns.*)

THESE are to certify that *A. B.* of _____ and *C. D.* of _____ being minded, as it is said, to enter into the contract of marriage, and being desirous of having the same duly solemnized, the said *A. B.* (or *C. D.*) has made oath as required by law, that he (or she) believes that there is no affinity, consanguinity, precontract or any other lawful cause or legal impediment, to bar or hinder the solemnization of the said marriage, and that said *A. B.* or *C. D.* (or both as the case may be) has (or have) had his (or her, or their) usual place of abode, for the space of fifteen days last past, within the *city, county, (or district) of* _____ *namely, in the township, town or village of* _____ *in the said county or district of* _____ and that the said *A. B.* and *C. D.* are of the full age of twenty-one years [or that *A. B.* (or *C. D.*) is a widower or widow ; or is under the age of twenty-one years and that the consent of *E. F.*, whose consent to said marriage is required by law, has been obtained ; or that the father of the said (party under age) is dead, no guardian of the person of said (party) has been appointed, and the mother of said (party) is dead (or married,) and there is no person having authority to give consent to said marriage, (as the case may be). And these are therefore to certify that the requirements of the Act respecting the solemnization of marriages have been complied with.

Given under my hand and seal at _____ this day of _____ in the year of our Lord one thousand eight hundred and _____ and in the _____ year of Her Majesty's reign.

G. H.

(*Issuer of Licenses.*)

Issued from the office of the Provincial Secretary for Province of Ontario, _____ under 37 Vict. cap. 6, this day of 18 .

K. L.

Provincial Secretary.

SCHEDULE

SCHEDULE B.

I, *A.B.* (or *C. D.*) of
make oath and say, { [Bachelor (or widower),
1. That I, and *C. D.* of Spinster (or widow),
bachelor (or widower)] are desirous of entering into the contract
of marriage, and of having our marriage duly solemnized. [spinster (or widow),

2. That, according to the best of my knowledge and belief, there is no affinity, consanguinity, precontract, or any other lawful cause or legal impediment, to bar or hinder the solemnization of the said marriage.

3. I, (or the said C. D. or both as the case may be) have (or has) had since the day of my (or his, or her, or our) usual place of abode, within the municipality of

4. I am of the age of years, and the said C. D. is of the age of years.

5. (In case of one or both of the parties being under the age of twenty-one years) I am a {widower } or the said D. C. (or A. B.) is a {widow } {widower } or according to the facts); or E. F. of

(widower) is the person whose consent to said marriage is required by law, and the said *E. F.* consents to the said marriage (or the father of the said (party under age) is dead, no guardian of the person of the said (party under age) has been appointed, and the mother of the said (party under age) is dead (or married), and there is no person having authority to give consent to said marriage (as the case may be.)

Sworn before me, at _____
in the _____ day of _____, 18_____. } (Signed,) *A. B.*
this _____ day of _____, *G. H.* } or *C. D.*
(Issuer of License.)

CAP. VII.

An Act to make further provision for the due Administration of Justice.

[Assented to 24th March, 1874.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. In order to secure the due despatch of the increased business of the Superior Courts, the due disposal of the increased circuit business, the speedy trial of controverted elections, and the appointment of the Judges of the Court of Error and Appeal to be appointed.